

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

GENERAL MOTORS LLC IGNITION SWITCH LITIGATION

*This Document Relates To:*

*Abney et al. v. General Motors LLC, 14-CV-5810;*  
*Fleck et al. v. General Motors LLC, 14-CV-8176;*  
*Hayes et al. v. General Motors LLC, 14-CV-10023;*  
*Bendermon et al. v. General Motors LLC, 15-CV-1354;*  
*Morgan et al. v. General Motors LLC, 15-CV-2844;*  
*Altebaumer et al. v. General Motors LLC, 15-CV-4142;*  
*Blood v. General Motors LLC, 15-CV-6578;*  
*Atz et al. v. General Motors LLC, 15-CV-5222;*  
*Athey et al. v. General Motors LLC, 16-CV-3105;*  
*Kats et al. v. General Motors LLC, 16-CV-5491;*  
*Bermudez et al. v. General Motors LLC, 15-CV-2644;*  
*Danley et al. v. General Motors LLC, 15-CV-4647;*  
*Maresca et al. v. General Motors LLC, 15-CV-3702;*  
*Hearn et al. v. General Motors LLC, 16-CV-2047*  
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JESSE M. FURMAN, United States District Judge:

On May 22, 2018, the Court granted the motion to withdraw of Hilliard Martinez Gonzales, Thomas J. Henry Injury Attorneys, Bailey Peavy Bailey Cowan Heckaman, PLLC, Pawa Law Group, P.C., and Pulaski Law Firm, PLLC (collectively, the “Firms”) as to certain plaintiffs (the “Affected Plaintiffs”) and severed their claims from the complaints filed by the Firms. (See 14-MD-2543, Docket No. 5590 (the “May 22 Order”), at Ex. A). The May 22 Order provided the Affected Plaintiffs ninety (90) days — that is, until August 20, 2018 — to file a new lawsuit in this Court and to pay any filing fee associated with filing a complaint pursuant to 28 U.S.C. § 1914(a). (*Id.* ¶ 3.) The Affected Plaintiffs were also directed to file a Related Case Statement identifying the lawsuit as relating to these proceedings. (*Id.*) On August 21, 2018, pursuant to the May 22 Order Paragraph 5, New GM filed a First Notice of Non-Compliance

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14-MD-2543 (JMF)

ORDER OF DISMISSAL

requesting dismissal *without* prejudice of the claims of the Affected Plaintiffs who had failed to comply with the May 22 Order. (14-MD-2543, Docket No. 5956.) On August 22, 2018, the Court granted the motion as to the Affected Plaintiffs. (14-MD-2543, Docket No. 5963.) The Court advised that New GM could move to dismiss the Affected Plaintiffs’ claims *with* prejudice unless the Affected Plaintiffs each filed an amended and severed complaint and Related Case Statement and paid the requisite filing fee within thirty days of the dismissal without prejudice. (*Id.*) The Affected Plaintiffs — listed on Exhibit A of this Order — have neither filed an amended and severed complaint and Related Case Statement nor paid the filing fee. On September 25, 2018, New GM filed a Second Notice of Non-Compliance as to the Affected Plaintiffs and requested dismissal of her claims with prejudice. (14-MD-2543, Docket No. 6092.)

The Supreme Court and the Second Circuit have long recognized that federal courts are vested with the authority to dismiss a plaintiff’s action with prejudice because of a failure to prosecute, a power that is “necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the District Courts.” *Link v. Wabash R.R.*, 370 U.S. 626, 629–30 (1962); *see, e.g., United States ex rel. Drake v. Norden Sys., Inc.*, 375 F.3d 248, 250 (2d Cir. 2004); *see also, e.g., In re World Trade Ctr. Disaster Site Litig.*, 722 F.3d 483, 487 (2d Cir. 2013) (noting that district courts’ “responsibility to manage their dockets so as to achieve the orderly and expeditious disposition of cases . . . is particularly acute where the litigation is complex and continuing”) (internal quotation marks omitted). Because dismissal is “one of the harshest sanctions at a trial court’s disposal,” however, it must be “reserved for use only in the most extreme circumstances.” *Drake*, 375 F.3d at 251. In considering a Rule 41(b) dismissal, a court must weigh five factors: “(1) the duration of the plaintiff’s failure to comply

with the court order, (2) whether plaintiff was on notice that failure to comply would result in dismissal, (3) whether the defendants are likely to be prejudiced by further delay in the proceedings, (4) a balancing of the court's interest in managing its docket with the plaintiff's interest in receiving a fair chance to be heard, and (5) whether the judge has adequately considered a sanction less drastic than dismissal." *Lucas v. Miles*, 84 F.3d 532, 535 (2d Cir. 1996).

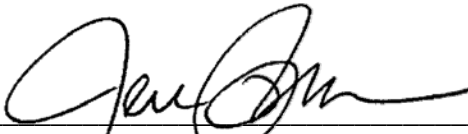
Upon due consideration of the foregoing factors, the Court finds that dismissal with prejudice is the appropriate sanction for the Affected Plaintiffs' failure to file an amended and severed complaint and pay the filing fee, as required by the May 22 Order. (*See* Docket No. 5590 ¶ 3.) The Affected Plaintiffs have been on continual notice of the consequences of failing to file an amended and severed complaint, and have been repeatedly reminded over the past several months — through the May 22 Order; New GM's First Notice of Non-Compliance (14-MD-2543, Docket No. 5956); the Court's dismissal *without* prejudice of their claims (14-MD-2543, Docket No. 5963); and New GM's current notice. Those efforts to inform the Affected Plaintiffs of the consequences of their noncompliance with the May 22 Order have proved fruitless, leaving the Court with no "means to move this case forward efficiently without the cudgel of extreme sanctions," *Baptiste v. Sommers*, 768 F.3d 212, 219 (2d Cir. 2014).

In light of the foregoing, the claims of the Plaintiffs listed in Exhibit A are hereby DISMISSED with prejudice. *See In re World Trade Ctr. Disaster Site Litig.*, 722 F.3d at 487 (holding that "the court did not exceed the bounds of its discretion in dismissing the noncompliant plaintiffs' complaints"). The Clerk of Court is directed to terminate those in Exhibit A as plaintiffs in *both* 14-MD-2543 and their respective member cases, and in the event all other parties have been terminated, to close the case.

In accordance with the May 22 Order, New GM shall serve a copy of this Order on all Plaintiffs listed on Exhibit A and file proof of such service.

SO ORDERED.

Dated: September 26, 2018  
New York, New York



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JESSE M. FURMAN  
United States District Judge

# **EXHIBIT A**

## **EXHIBIT A**

<b>Name</b>	<b>Cause No.</b>
Abrams, Kenneth	1:14-cv-05810 Abney et al. v. General Motors LLC
Agwunobi, Kenekchukwu	1:14-cv-05810 Abney et al v. General Motors, LLC
Aldana, Carlos	1:14-cv-05810 Abney et al v. General Motors, LLC
Aldana, Gena	1:14-cv-05810 Abney et al v. General Motors, LLC
Ballard, Rose	1:14-cv-05810 Abney et al v. General Motors, LLC
Banks, Brenda IARE Clyde Banks	1:14-cv-05810 Abney et al v. General Motors, LLC
Bennett, Apallonia	1:14-cv-05810 Abney et al v. General Motors, LLC
Blakes, Avonya	1:14-cv-05810 Abney et al v. General Motors, LLC
Brown, Melissa	1:14-cv-05810 Abney et al v. General Motors, LLC
Casey, Shaquel	1:14-cv-05810 Abney et al v. General Motors, LLC
Choice, Kisha	1:14-cv-05810 Abney et al v. General Motors, LLC
Cobb, Thomas IARE Steven Cobb	1:14-cv-05810 Abney et al v. General Motors, LLC
Cook, Frank	1:14-cv-05810 Abney et al v. General Motors, LLC
Cox, Yolanda	1:14-cv-05810 Abney et al v. General Motors, LLC
Cramer, Jesse	1:14-cv-05810 Abney et al v. General Motors, LLC
Cross, Randy	1:14-cv-05810 Abney et al v. General Motors, LLC
Currie, Tracy	1:14-cv-05810 Abney et al v. General Motors, LLC
Dorse, Jessica	1:14-cv-05810 Abney et al v. General Motors, LLC
Ellison, Patrice	1:14-cv-05810 Abney et al v. General Motors, LLC
Gonzalez, Sandra Denise	1:14-cv-05810 Abney et al v. General Motors, LLC
Gordon, Chelsie	1:14-cv-05810 Abney et al v. General Motors, LLC
Green, Nathan	1:14-cv-05810 Abney et al v. General Motors, LLC
Grove, Linda	1:14-cv-05810 Abney et al v. General Motors, LLC
Hachey, Clark	1:14-cv-05810 Abney et al v. General Motors, LLC
Hamilton, Lillian	1:14-cv-05810 Abney et al v. General Motors, LLC
Harris, Lawrisa	1:14-cv-05810 Abney et al v. General Motors, LLC
Johnson, Larry	1:14-cv-05810 Abney et al v. General Motors, LLC
Johnson, Robin	1:14-cv-05810 Abney et al v. General Motors, LLC
Jones, Catherine - Deceased	1:14-cv-05810 Abney et al v. General Motors, LLC
Kaufmann, Donald R IANF N.K. IARE Courtney Heaton	1:14-cv-05810 Abney et al v. General Motors, LLC
Kirkland, Jean	1:14-cv-05810 Abney et al v. General Motors, LLC
Lavergne, Lisa	1:14-cv-05810 Abney et al v. General Motors, LLC
Lister, Shawana	1:14-cv-05810 Abney et al v. General Motors, LLC
Malone, Mayzel	1:14-cv-05810 Abney et al v. General Motors, LLC
McClinton, Tara	1:14-cv-05810 Abney et al v. General Motors, LLC
Pender, Harry	1:14-cv-05810 Abney et al v. General Motors, LLC
Perez, Norma	1:14-cv-05810 Abney et al v. General Motors, LLC
Pierce, Joseph IARE Raymond Pierce	1:14-cv-05810 Abney et al v. General Motors, LLC
Pruitt, Jasmine	1:14-cv-05810 Abney et al v. General Motors, LLC
Safewright, Barbara	1:14-cv-05810 Abney et al v. General Motors, LLC
Sam, Trenice - Deceased	1:14-cv-05810 Abney et al v. General Motors, LLC
Skeels, Elizabeth	1:14-cv-05810 Abney et al v. General Motors, LLC
Smith, Lonnie	1:14-cv-05810 Abney et al v. General Motors, LLC
Smith, Phyllette	1:14-cv-05810 Abney et al v. General Motors, LLC
Smith, Unique	1:14-cv-05810 Abney et al v. General Motors, LLC
Smith, Victor	1:14-cv-05810 Abney et al v. General Motors, LLC

Staggs, Adam IARE Gary Staggs	1:14-cv-05810 Abney et al v. General Motors, LLC
Taylor, Deborah	1:14-cv-05810 Abney et al v. General Motors, LLC
Thompson, Jeami	1:14-cv-05810 Abney et al v. General Motors, LLC
Tripp, Polly	1:14-cv-05810 Abney et al v. General Motors, LLC
Tucker, Marion	1:14-cv-05810 Abney et al v. General Motors, LLC
Walker, Diana	1:14-cv-05810 Abney et al v. General Motors, LLC
Watkins, Gloria	1:14-cv-05810 Abney et al v. General Motors, LLC
Woods, Kimberly	1:14-cv-05810 Abney et al v. General Motors, LLC
Woods, Promise	1:14-cv-05810 Abney et al v. General Motors, LLC
Ybarbo, Robert	1:14-cv-05810 Abney et al v. General Motors, LLC
Zayas, Marissa	1:14-cv-05810 Abney et al v. General Motors, LLC
Dor, Gabriel	1:14-cv-08176 Fleck, et al. v. General Motors, LLC
Dupervil, Reginald	1:14-cv-08176 Fleck, et al. v. General Motors, LLC
Glosson, Sylvia Jones	1:14-cv-08176 Fleck, et al. v. General Motors, LLC
Gray, Samantha	1:14-cv-08176 Fleck, et al. v. General Motors, LLC
Horne, Janay	1:14-cv-08176 Fleck, et al. v. General Motors, LLC
Hughes, Katherine	1:14-cv-08176 Fleck, et al. v. General Motors, LLC
Johnson, Tyler	1:14-cv-08176 Fleck, et al. v. General Motors, LLC
McCann, Julie	1:14-cv-08176 Fleck, et al. v. General Motors, LLC
Myrick, Aaron	1:14-cv-08176 Fleck, et al. v. General Motors, LLC
Pierre, Kachet	1:14-cv-08176 Fleck, et al. v. General Motors, LLC
Selix, Lanette	1:14-cv-08176 Fleck, et al. v. General Motors, LLC
Smith, Patricia	1:14-cv-08176 Fleck, et al. v. General Motors, LLC
Vaughn, Anthony	1:14-cv-08176 Fleck, et al. v. General Motors, LLC
Williams, Jessica	1:14-cv-08176 Fleck, et al. v. General Motors, LLC
Heaton, Cindi IARE Courtney Heaton	1:14-cv-10023 Hayes, et al. v General Motors, LLC
Kaufmann, Donald IARE Courtney Heaton	1:14-cv-10023 Hayes, et al. v General Motors, LLC
Staggs, Andrew IARE Gary Staggs	1:14-cv-10023 Hayes, et al. v General Motors, LLC
Williams, Jene	1:14-cv-10023 Hayes, et al. v General Motors, LLC
Wisley, Chelsea IARE Gary Staggs	1:14-cv-10023 Hayes, et al. v General Motors, LLC
Minchala-Condo, Chastity IARE Gary Staggs	1:15-cv-01354 Bendermon et al v. General Motors, LLC
Lowe, Sara IANF B.L.	1:15-cv-02844 Morgan et al v. General Motors, LLC
Howard, Peggy	1:15-cv-04142 Altebaumer et al v. General Motors, LLC
La Quatra, Clifford	1:15-cv-06578 Blood v. General Motors, LLC
Martin, Ashley	1:15-cv-06578 Blood v. General Motors, LLC
Stewart, Casey	1:14-cv-05810 Abney et al v. General Motors, LLC
Atz, Betty (OBO Atz, Robert)	1:15-cv-05222 Atz, et al v. General Motors, LLC
Bertels, Quentin	1:16-cv-03105 Athey, et al v. General Motors, LLC
Carpenter, Christian	1:16-cv-05491 Kats, et al v. General Motors, LLC
Fortune, Bobby	1:15-cv-02644 Bermudez, et al v. General Motors, LLC
Greene, Ciera	1:16-cv-03105 Athey, et al v. General Motors, LLC
Hitt, Mary	1:15-cv-04647 Danley, et al v. General Motors, LLC
Holt, Paul	1:16-cv-03105 Athey, et al v. General Motors, LLC
Lewis, Michael	1:16-cv-03105 Athey, et al v. General Motors, LLC
Neal, Keven	1:15-cv-03702 Maresca, et al v. General Motors, LLC
O'Dowd, Cheryl (IARE O'Dowd, Kristie)	1:15-cv-02644 Bermudez, et al v. General Motors, LLC
Phillips, Allison	1:15-cv-03702 Maresca, et al v. General Motors, LLC
Presley, Vickie (IARE Presley, Darlean)	1:15-cv-02644 Bermudez, et al v. General Motors, LLC

Saunders, Tarquin	1:15-cv-04647 Danley, et al v. General Motors, LLC
Stromas, Kaosha	1:16-cv-03105 Athey, et al v. General Motors, LLC
West, Cynthia	1:16-cv-03105 Athey, et al v. General Motors, LLC
Whitaker, Darryl	1:15-cv-04647 Danley, et al v. General Motors, LLC
Williams, Bruce	1:16-cv-02047 Hearn, et al v. General Motors, LLC
Vance, Angela (IARE Vance, Robert)	1:15-cv-02644 Bermudez, et al v. General Motors, LLC